

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

OLIVER LEON THOMAS,

Petitioner,

V.

KIMBERLY CLIPPER,

Respondent.

CASE NO. 1:12 CV 322

JUDGE JOHN R. ADAMS

MEMORANDUM OF OPINION  
AND ORDER

On February 9, 2012, petitioner *pro se* Oliver Leon Thomas, an inmate at the Grafton Correctional Institution, filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. The petition challenges his convictions, pursuant to a guilty plea, on five counts of gross sexual imposition. For the reasons stated below, the petition is denied and this action is dismissed.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

It is evident on the face of the petition that Thomas has not exhausted his state court remedies, as he currently has a mandamus action in the Ohio Supreme Court of Appeals, wherein he seeks to have the judgment entry of conviction re-filed so that he may file a timely direct appeal. His inability to have his convictions reviewed on direct appeal is a central issue in the instant petition. Thus, without regard to the potential merits of the grounds sought to be raised herein, the

petition is premature.

Accordingly, this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

Date: 4/30/2012

/s/John R. Adams  
JOHN R. ADAMS  
UNITED STATES DISTRICT JUDGE